

SECTION 7.0 SPECIAL REGULATIONS

7.1 MUNICIPAL CONVERSIONS

7.1.1 Purpose. The intent of this Section 7.0 is to administer the conversion of municipally-owned property in a manner that will be in harmony with the intent of these By-Laws and that will ensure the integrity of abutting neighborhoods.

7.1.2 Applicability. No sale, lease or occupancy agreement to use municipally owned property (except for land located within the Economic Development Area Overlay District) shall be concluded prior to the Board of Selectmen issuing a Municipal Conversion Permit.

1. The issuance of a Municipal Conversion Permit shall not relieve the applicant from complying with other requirements of these By-Laws, including Site Plan Review.

7.1.3 Procedures. Five (5) copies of an application for a Municipal Conversion Permit shall be submitted to the Board of Selectmen. Applications shall be accompanied by plans, exhibits and other information considered necessary by the Board of Selectmen. All applications shall include, but not be limited to the following:

1. A detailed description and site plan of the proposed use.
2. The number of employees or residents which shall be retained or housed on the site.
3. Projections of traffic flows and proposed access/egress provisions.
4. Other concerns which the Board of Selectmen may consider necessary and appropriate.

7.1.4 Public Hearing. Upon the receipt of an application, the Board of Selectmen shall post a notice for a public hearing pursuant to Section 10.4. Copies of the application shall be transmitted to the Building Commissioner, Planning Board, Conservation Commission and the Board of Health while one copy is retained by the Board of Selectmen. The Board of Selectmen shall conduct a public hearing within twenty-one (21) days from the receipt of an application.

7.1.5 Permit Required. No sale, lease or occupancy agreement shall be concluded prior to the Board of Selectmen issuing a permit or until twenty-one (21) days have elapsed from the date of the public hearing.

7.1.6 Conditions. The Board of Selectmen may set conditions or impose further restrictions as they consider necessary on any permit to meet the intent and requirements of these By-Laws.

1. The Board of Selectmen may prohibit any particular use, even though the use may be permitted by the underlying zoning.

7.2 WIRELESS COMMUNICATIONS FACILITIES

7.2.1 Purpose. The purpose of this Section 7.2 is to:

1. Minimize adverse impacts of wireless communications facilities, satellite dishes and antennas on adjacent properties and residential neighborhoods; and
2. Minimize the overall number and height of such facilities to only what is essential; and
3. Promote shared use of existing facilities to reduce the need for new facilities.

7.2.2 General Requirements.

1. No wireless communications facility, which shall include monopoles, satellite dish(es) over three (3) feet in diameter, or antennae, shall be erected or installed except in compliance with the provisions of this Section 7.2. Unless otherwise noted herein, a Special Permit is required from the Board of Appeals. Section 10.5 of these By-Laws shall not apply to an application for any such Special Permit. Any proposed extension in the height or construction of a new or replacement facility shall be subject to a finding by the Board of Appeals that such extension or construction shall not be substantially more detrimental than the existing structure or use to the neighborhood. The Building Commissioner shall review petitions for the addition of cells, antennae or panels to existing monopoles or towers and shall allow such without a new hearing provided the additions comply with the intent of this Section 7.2.
2. Only freestanding monopoles, with associated antennae and/or panels are allowed as specified in Section 7.2.4, below. Lattice style towers and similar facilities requiring three or more legs and/or guy wires for support are not allowed.
3. Wireless communications monopoles and associated facilities shall only be located in Non-Residential Districts and shall be suitably screened from abutters and residential neighborhoods.
4. Panels, antennae and associated equipment may be approved as accessory uses in Residential Districts. The intent of this provision is to allow such facilities to be located in or on structures appropriately screened and/or camouflaged pursuant to this Section 7.2.
5. Antennae and directly related facilities used exclusively for communication for the purpose of federally licensed amateur radio operators shall be exempt from this Section 7.2.
6. Structures shall be removed within one (1) year of cessation of use. If applicable, annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration and the American National Standards Institute and required maintenance shall be filed with the Building Commissioner by the Special Permit holder.

7.2.3 Application Process. All applications for wireless communications facilities, antenna or satellite dishes shall be made and filed on the applicable application form in compliance with the Board of Appeals Application Instructions. For an application to be considered complete, ten (10) copies of the following information must be submitted:

1. A locus plan at a scale of 1"=1000' which shall show all property lines, the exact location of the proposed structure(s), streets, landscape features, residential dwellings and neighborhoods and all buildings within five-hundred (500) feet of the facility.
2. A color photograph or rendition of the proposed monopole with its antenna and/or panels. For satellite dishes or residential antenna, a color photograph or rendition illustrating the dish at the proposed location is required. A rendition shall also be prepared illustrating a view of the monopole, dish or antenna from the nearest street or streets.
3. The following information prepared by one or more professional engineers:
 - a. A description of the monopole and the technical, economic and other reasons for the proposed location, height and design.
 - b. Confirmation that the monopole complies with all applicable Federal and State standards.
 - c. A description of the capacity of the monopole including the number and type of panels, antennae and/or transmitter receivers that it can accommodate and the basis for these calculations.
4. If applicable, a written statement that the proposed facility complies with, or is exempt from applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.
5. The applicable review and advertising fees as noted in the application guidelines.

7.2.4 Design Standards. The following standards shall be used when preparing plans for the siting and construction of all wireless communications facilities.

1. All monopoles shall be designed to be constructed at the minimum height necessary to accommodate the anticipated and future use. The setback of a monopole from the property line of the lot on which it is located shall be at least equal to the height of the monopole.
2. No monopole or attached accessory antenna on a monopole shall exceed one hundred-twenty (120) feet in height as measured from ground level at the base of the pole. No monopole shall be constructed which requires guy wires. Monopoles shall not be located on buildings.
3. The height of antennae or dishes located on residential buildings or in the yards of

residential structures shall not exceed the tree line on the lot. However, the height of antennae for federally licensed amateur radio operators may be increased to accommodate radio communications.

4. Antennae or dishes located on nonresidential buildings shall not exceed ten (10) feet in height above the roofline of the structure.
5. All wireless communications facilities shall be sited in such a manner that the view of the facility from adjacent abutters, residential neighbors and other areas of the Town shall be as limited as possible. All monopoles and dishes shall be painted or otherwise colored so they will blend in with the landscape or the structure on which they are located. A different coloring scheme shall be used to blend the structure with the landscape below and above the tree or building line.
6. Satellite dishes and/or antennae shall be situated on or attached to a structure in such a manner that they are screened, preferably not being visible from abutting streets. Free standing dishes or antennae shall be located on the landscape in such a manner so as to minimize visibility from abutting streets and residences and to limit the need to remove existing vegetation. All equipment shall be colored, molded and/or installed to blend into the structure and/or the landscape.
7. Wireless communications facilities shall be designed to accommodate the maximum number of users technologically practical. The intent of this requirement is to reduce the number of facilities which will be required to be located within the community.
8. All monopoles shall be located a minimum of five hundred (500) feet from the nearest residential structure.
9. Fencing shall be provided to control access to wireless communications facilities and shall be compatible with the scenic character of the Town and shall not be of razor wire.
10. There shall be no signs, except for announcement signs, no trespassing signs and a required sign giving a phone number where the owner can be reached on a twenty-four (24) hour basis. All signs shall conform with the Sign By-Law (Section 15B of the Foxborough General By-Laws).
11. Night lighting of towers shall be prohibited unless required by the Federal Aviation Administration. Lighting shall be limited to that needed for emergencies and/or as required by the FAA.
12. There shall be a minimum of one (1) parking space for each facility, to be used in connection with the maintenance of the site, and not to be used for the permanent storage of vehicles or other equipment.

7.2.5 Special Permit Review. Applications for Special Permits may be approved or approved with conditions if the petitioner can fulfill the requirements of this Section 7.2 to the satisfaction of the Board of Appeals. Applications for Special Permits may be denied if the petitioner cannot fulfill or address the requirements of these regulations to the

satisfaction of the Board.

1. When considering an application for a wireless communication facility, the Board of Appeals shall place great emphasis on the proximity of the facility to residential dwellings and its impact on these residences. New facilities shall only be considered after a finding that existing (or previously approved) facilities cannot accommodate the proposed uses(s).
2. When considering an application for an antenna or dish proposed to be placed on a structure, the Board of Appeals shall place great emphasis on the visual impact of the unit from the abutting neighborhoods and streets(s).

7.3 ADULT ENTERTAINMENT AND USES

7.3.1 Findings. Secondary effects of adult entertainment and uses and have been found by the Planning Board to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the Town, adverse impacts on property values of residential and commercial properties and adverse impacts on the quality of life in the Town. This was determined after a review of studies provided to the Planning Board and after soliciting public commentary.

7.3.2 Purpose and Intent. It is the purpose and intent of this Section 7.3 to address and mitigate the secondary effects of Adult Uses as defined and referenced herein. The provisions of this Section have neither the purpose nor intent of imposing a limitation or restriction on the content of any communicative, sexually oriented matter or materials. Similarly, it is not the purpose or intent of this Section to restrict or deny access by adults to adult entertainment or uses protected by the Constitutions of the United States of America and the Commonwealth of Massachusetts, or to restrict or deny rights that distributors or exhibitors of such matter or materials may have to see, rent, distribute, or exhibit such matter or materials. Neither is it the purpose or intent of this Section to legalize the sale, rental, distribution, or exhibition of obscene or other illegal matter or materials.

7.3.3 Definitions. See Section 11 - "Adult Entertainment and Uses."

7.3.4 Special Permit Required. No Adult Use shall be allowed except by a Special Permit granted by the Planning Board. The Board may grant a Special Permit for an Adult Use, with such conditions as it deems appropriate for the protection of public health, safety, and welfare only if the use is found by the Board to comply with the standards set forth below, and the requirements noted in Section 9.1.5 and Section 10.4 of these By-Laws.

7.3.5 Location. An adult use may not be located:

1. Within seven hundred fifty (750) feet of a boundary line of a residential zoning district; or
2. Within seven hundred fifty (750) feet of a lot line of any lot containing a church, public school, private kindergarten or school, licensed day-care facility, park, playground, library, cultural facility (including stadiums), museum, elderly housing,

assisted living facility, nursing home, or adult day-care facility; or

3. Within seven hundred fifty (750) feet of a lot line of any lot containing an establishment licensed under the provisions of General Laws Chapter 138, Section 12; or
4. Within five hundred (500) feet of any other Adult Entertainment Establishment or Use; or
5. Within seven hundred fifty (750) feet of the Washington Street layout lines.

7.3.6 Standards.

1. The mercantile/retail restriction found in Section 9.1.3 shall not apply to Adult Uses.
2. Signs for an Adult Entertainment Establishment or Adult Use must meet the dimensional requirements of Section 15B of the Foxborough General By-Laws. No sign, advertisement, display or other promotional material that contains sexually explicit graphics or sexually explicit text shall be visible to the public from any public or private way, sidewalk, highway or railway.
3. If the Adult Use allows for the showing of films or videos within the premises, the booths in which the films or videos are to be viewed shall not be closed off by curtains, doors or screens. All booths must be able to be clearly seen from the center of the establishment.
4. No Special Permit for an Adult Use shall be issued to any person convicted of violating Massachusetts General Laws, Chapter 119, Section 63, or Massachusetts General Laws, Chapter 272, Section 28.
5. Any Special Permit issued under this Section 7.3 shall require that the owner of such adult use shall supply on a continuing basis to the Building Inspector any change in the name of the record owner or address or any change in the name of the current manager; and that failure to comply with this provision shall result in the immediate revocation of such Special Permit,. If anyone so identified is or is found to be convicted of violating Massachusetts General Laws, Chapter 119, Section 63, or Massachusetts General Laws, Chapter 272, Section 28, such Special Permit shall immediately be null and void.
6. No Special Permit issued under this Section 7.3 shall become valid or in full force and effect unless and until the owner of the property containing such Adult Use shall provide to the Zoning Enforcement Officer proof of the recording of said Special Permit with the Norfolk County Registry of Deeds.
7. Any Adult Use in existence prior to the adoption of this Section 7.3 shall apply for a Special Permit within ninety (90) days following the adoption of this Section and shall be required to comply in all respects with these requirements.

7.3.7 Special Permit Application. A completed application must be submitted pursuant to

the Planning Board's Special Permit Rules and Regulations (on file and available at the Town Clerk and Planning Office). The completed application must also include:

1. Name and address of the legal owner of the proposed establishment or use;
2. Name and address of all persons having a lawful, equity or security interest in the Adult Establishment or Use;
3. A sworn statement stating that neither the applicant nor any person having a lawful, equity or security interest in the Adult Establishment or Use has been convicted of violating the provisions of Massachusetts General Laws, Chapter 119, Section 63, or Massachusetts General Laws, Chapter 272, Section 28;
4. Name and address of the manager of the Adult Establishment or Use;
5. Proposed provisions for security within and without the Adult Establishment or Use;
6. The number of employees; and
7. The present and proposed physical layout of the interior of the Adult Establishment or Use.

7.3.8 Procedures.

1. A public hearing will be held pursuant to the requirements of Massachusetts General Laws, Chapter 40A, Section 11.
2. A decision will be rendered by the Planning Board within the time frames and guidelines noted in Massachusetts General Laws, Chapter 40A, Sections 9 and 11, respectively.

7.4 SOLAR ENERGY REGULATIONS

7.4.1 Purpose: The purpose of this bylaw is to promote the creation of solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

7.4.2 Applicability: This section applies to Large-Scale and On-Site Ground-Mounted Solar Photovoltaic Installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment. Roof-mounted systems are regulated by the State Building Code.

7.4.3 General Requirements for Solar Photovoltaic Installations

1. The construction and operation of all solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications

requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

2. No solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.
3. **Site Plan Review:** Solar photovoltaic installations shall undergo site plan review by the Planning Board prior to construction, installation or modification as provided in this section. In addition to the Plan and Application requirements in section 10.5 of this By-Law, the following shall be submitted for Large-Scale Ground-Mounted Solar Photovoltaic Installations and as directed by the board, for On-Site Ground-Mounted Solar Photovoltaic Installations:
 1. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
 2. Documentation of the major system components to be used, including the photovoltaic panels, mounting system, and inverter;
 3. Name, address, and contact information for proposed system installer;
 4. Documentation of actual or prospective access and control of the project site (see also Section 7.4.3.4);
 5. An operation and maintenance plan (see also Section 7.4.3.6);
 6. Proof of liability insurance; and
 7. Description of financial surety that satisfies Section 3.12.3.
4. **Site Control:** The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed Large-Scale Ground-Mounted Solar Photovoltaic Installation.
5. **Operation & Maintenance Plan:** The project proponent shall submit a plan for the operation and maintenance of the Large-Scale Ground-Mounted Solar Photovoltaic Installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.
6. **Utility Notification:** No large-scale ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

7.4..4 Dimension and Density Requirements

1. For Large-Scale Ground-Mounted Solar Photovoltaic Installations, front, side and rear setbacks shall comply with Table 4-2 and section 4.1.3 of these By-Laws.
2. All appurtenant structures to solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area,

setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be screened and/or joined or clustered to avoid adverse visual impacts.

7.4.5 Design Standards

1. Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
2. A sign complying with the Sign By-Law and visible from the nearest public way shall be required to identify the owner and provide a 24-hour emergency contact phone number. The board may require additional identification signs to be erected and maintained. A compliant sign may also be erected as a means for students and the public to understand the operation and principles of the solar photovoltaic installation. Solar photovoltaic installations shall not be used for displaying other signs or any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.
3. Reasonable efforts, as determined by the board, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
4. If required by the Town, the site or specific portions of the site shall be secured with a fence or barrier to restrict access.
5. Screening, buffers and landscaping shall be provided in compliance with section 6.4 of this By-Law.
6. In order to minimize the impacts on the land, soil, and habitats, clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

7.4.6 Safety and Environmental Standards: The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the fire chief. The board may require that the owner or operator shall develop an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation. The board may require that owners or operators of on-site solar photovoltaic installations comply with this section.

- 7.4.7. Monitoring and Maintenance:** The large - scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.
- 7.4.8. Abandonment or Decommissioning:** Any ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with this section shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the board and building commissioner by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
1. Physical removal of all large- scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
 2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 3. Stabilization or re-vegetation of the site as necessary to minimize erosion. The board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- 7.4.9. Abandonment:** Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the board. If the owner or operator of the Large-Scale Ground-Mounted Solar Photovoltaic Installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.
- 7.4.10. Financial Surety:** The owners or operators of large-scale ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. The board may require on-site ground-mounted solar photovoltaic provide such surety. This surety will not be required for municipally- or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.